

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

ANGELICA T.

Petitioner,

vs.

EAST LOS ANGELES REGIONAL  
CENTER,

Respondent.

OAH Case No. L 2007040261

(Early Intervention Services Act  
Gov. Code, § 95000 et seq.)

**DECISION**

Chris Ruiz, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), heard this matter at the East Los Angeles Regional Center in Alhambra, California, on April 30, 2007.

Elvira T., Petitioner's mother (Mother), represented Petitioner Angelic T. (Petitioner).<sup>1</sup>

Don Daniels, Supervisor of Community Residential Services, represented East Los Angeles Regional Center (ELARC or Regional Center.)

The matter was submitted for decision on April 30, 2007. This decision was due by May 9, 2007.

**ISSUE PRESENTED**

Shall the Regional Center be ordered to fund two hours, per week, of individual speech therapy (ST) for Petitioner under the Early Start Program?

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<sup>1</sup> Petitioner and her family are referred to by their initials or family titles to protect their confidentiality.

## FACTUAL FINDINGS

1. Petitioner is a 27-month old girl (date of birth January 26, 2005) who has been diagnosed with Down Syndrome. Petitioner has been receiving services under the Early Start Program, including 45 minutes per week of group ST. This amount of group ST was agreed upon by all parties in the Individualized Family Service Plan (IFSP), dated January 29, 2007. Petitioner seeks an additional two hours per week of individual ST.

2. On February 21, 2007, Regional Center denied Petitioner's request for individual ST. The basis of Regional Center's denial was that Petitioner was making sufficient progress with the current group ST being funded.

3. On April 5, 2007, Mother filed a Request for Due Process Hearing.

4. Petitioner has a mild receptive language delay, a mild-moderate expressive language delay, and mild oral weakness. Petitioner attends Leffingwell School where she is enrolled in a program designed for children between the ages of 18 months and three years. Petitioner receives her group ST at Leffingwell School.

5. The parties presented exhibits, the testimony of Mother, the testimony of Mr. Daniels. No expert testimony was offered. The experts' reports are discussed directly below.

6. Petitioner relies on the report (dated January 4, 2007) of Amy Johnson, speech and language pathologist. Ms. Johnson opined that Petitioner could make greater progress in vocabulary acquisition, phrase construction, and in her oral musculature, if she received an additional two hours per week of individual ST.

7. Regional Center relies on the report/letter of Myrna Ramirez, speech and language pathologist (dated February 14, 2007.) Ms. Ramirez opined that Petitioner is making sufficient developmental progress with her present group ST program. In forming her opinion, Ms. Ramirez relied on the opinion of Laurie Peel, a speech and language pathologist at Leffingwell School. Ms. Peel reported to Ms. Ramirez that Petitioner is meeting the goals stated in the IFSP.

## LEGAL CONCLUSIONS AND DISCUSSION

1. The Early Start Program is the common name for the California Early Intervention Services Act (Gov. Code, §§ 95000-95039). Early Start implements a federal program created by the Individuals with Disabilities Education Act (20 U.S.C. §§ 1401-1487), which provides services to infants and toddlers who meet certain criteria. Under Government Code section 95014, these services are only available to a child from the child's date of birth until the child's third birthday. At or about the child's third birthday, the child must seek eligibility under the Lanterman Act if the child wants to continue receiving services from the regional center.

2. The Department of Developmental Services (DDS) is the state agency charged with implementing both the Early Start Program and for providing services under the Lanterman Act. DDS delivers both the Early Start and Lanterman Act services through regional centers. (Gov. Code, § 95004 and Welf. & Inst. Code, § 4620.)

3. Services shall be provided to an Early Start consumer pursuant to an IFSP. (Gov. Code, §§52100 & 52106.) The IFSP shall address the infant's or toddler's developmental needs. (Gov. Code, § 52100.) The party contending that the IFSP is inadequate to meet the consumer's needs bears the burden of proving the facts necessary to reach that conclusion. (Evid. Code, § 500.) In this case, the most recent IFSP indicates that the parties agreed that the Regional Center would fund 45 minutes per week of group ST. The IFSP does note that Mom was in the process of obtaining an independent speech and language evaluation (from Ms. Johnson). As such, the burden is on Petitioner to establish that her needs are not being met by the group ST being provided in accordance with the IFSP.

4. a. Petitioner cited and relied on title 20 United States Code section 1431 which states, in pertinent part:

- (a) Congress finds that there is an urgent and substantial need--
  - (1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life;
  - (2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;
  - (3) *to maximize the potential* for individuals with disabilities to live independently in society;
  - (4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and
  - (5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care. (*emphasis added.*)

b. Petitioner contends that the language “maximize the potential” should require the Regional Center to fund additional individual ST for Petitioner because it would likely maximize her potential.

5. a. Regional Center cited and relied on title 34 Code of Federal Regulations part 303.12 which states, in pertinent part:

(a) General. As used in this part, early intervention services means services that --

(1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child's development

b. Regional Center contends that it should only be required to fund services which “meet the developmental needs” of Petitioner.

6. Neither party presented expert opinion testimony at hearing. Therefore, the ALJ only had the experts’ reports to consider. All expert opinions were given equal weight. The statutory authority cited by Petitioner references Congress’ general intent, not how the Early Start Program should specifically be implemented. To find otherwise would be illogical. Generally, the more services provided to a Petitioner, the greater the chances to maximize potential. However, there must be some reasonable limit. Otherwise, every service desired or requested by a petitioner, which could arguably maximize a petitioner’s potential, would have to be funded by the regional center. The Regulation cited in Legal Conclusion 4 requires that services provided by the regional center “meet the developmental needs of each child.” This language implies that there are limits to the services required to be funded under the Early Start program. That is, the Regional Center is only required to fund services required to meet the development needs of Petitioner. In this case, it was not established that Petitioner is not making sufficient progress with the current level of group ST being provided. For example, Ms. Johnson’s report only states that Petitioner could potentially make greater progress if Petitioner also received individual ST, not that Petitioner is not making sufficient developmental progress. For this reason, the following order is required.

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ORDER

Petitioner Angelic T.'s appeal is denied.

DATED: May 7, 2007

/s/  
CHRIS RUIZ  
Administrative Law Judge  
Office of Administrative Hearings